

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1758 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE K.R.VYAS

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

SARFARAZ SARDAR MANSURI

Versus

STATE OF GUJARAT

Appearance:

MR YN RAVANI for Petitioner

MR UR BHATT AGP for Respondents

CORAM : MR.JUSTICE K.R.VYAS

Date of decision: 31/07/96

ORAL JUDGEMENT

In this petition under Article 226 of the Constitution of India, the petitioner Sarfraz Sardar Mansuri has challenged the legality and validity of the order of his detention dated 9.2.1996, passed under sec. 3(1) of the Gujarat Prevention of Anti Social Activities Act, 1985 (hereinafter referred to as the 'PASA Act') by the District Magistrate, Bharuch (hereinafter referred

to as the 'detaining authority'), who after placing reliance on two criminal cases registered on 30.8.95 and 25.10.95 for the offence covered under Chapters 16 and 17 of the IPC and, also relying on the statements of about 14 witnesses, has recorded a finding that the detenu is a dangerous person within the meaning of section 2(c) of the PASA Act, and with a view to preventing the detenu from acting in any manner prejudicial to the maintenance of public order it was necessary to pass the order of detention against the detenu and, therefore, the impugned order is passed, which is under challenge in the present petition.

Since this petition is required to be allowed on the first contention of Mr. Ravani learned advocate appearing for the petitioner, it is not necessary to consider other contentions. Mr. Ravani submitted that the petition is required to be allowed on the ground of delay in passing the order of detention. He has invited my attention to the dates of registration of the offences and the date of the recording of the statements of the witnesses. Having perused the record minutely, I feel that the petition is required to be allowed on the contention of delay in passing the order of detention. As stated above, two cases have been registered against the detenu by the Sagbara Police Station on 30.8.95 and 25.10.95. Besides this, the statements of 14 witnesses have been recorded on different dates namely on 27.10.95 and 10.1.1996. The statements which are recorded on 10.1.1996, two witnesses have referred to the incidents happened before six months. Thus, there is a delay of about more than 4 months from the date of the last offence registered against the detenu. No materials have been produced on behalf of the respondents explaining the delay in passing the order of detention. Under the circumstances, relying on the decision of the Supreme Court, in the case of Pradeep Nilkanth Paturkar vs. S. Ramamurthi and others, reported in AIR, 1994 SC 656, the petition is required to be allowed by holding that the continued detention of the detenu is illegal and vitiated.

In the result, the petition is allowed. The impugned order of detention dated 9.2.1996 is quashed and set aside. The detenu- Sarfraj Sardar Mansuri is directed to be set at liberty forthwith, if his detention is not required for any other purpose. Rule is made absolute with no order as to costs.
